

Title 316 NEBRASKA DEPARTMENT OF REVENUE  
Chapter 9 LOCAL OPTION SALES AND USE TAX REGULATIONS

REG-9-001 AUTHORIZATION

001.01 Any city may authorize and impose a local sales and use tax by ordinance after such tax has been approved by a majority of the votes cast in a regular election held within the municipality. The local sales and use tax will be collected and administered by the State Tax Commissioner and remitted to the adopting municipality. The definition of retail sale and all other definitions shall be those prescribed by the Nebraska Revenue Act of 1967, as amended, unless inconsistent with the provisions of the Local Option Revenue Act.

001.02 Such local tax must be set either at the rate of 1/2%, 1%, or 1 1/2% on retail sales within the borders of the municipality.

001.03 The election required for approval of a local option sales and use tax may be part of any regular city, county, or state election held within the municipality and open to all qualified electors. The question regarding the choice of imposing or not imposing a local tax shall be submitted to the voters in the required statutory language. The question may be initiated either upon order of the city officials or upon petition by qualified electors to the governing body. Notice of the impending question shall be given by publication, as required by Section 77-27,142.03, of the Nebraska Revised Statutes. If the majority of the voters do not approve the imposition of a local sales and use tax, then the question shall not be submitted to the voters again for at least twenty-three months.

001.04 Upon approval by the majority of the votes cast at a regular election, the city imposing any such sales and use tax must duly adopt an ordinance in accordance with its municipal and statutory authority when adopting ordinances. The implementation of the sales and use tax so imposed will not begin until the first day of the calendar quarter following receipt by the Tax Commissioner of the certified materials prescribed in Reg-9-002, Notification to State Tax Commissioner of City Adoption of Local Sales and Use Tax; provided, the certified copies are received 120 days prior to the start of the next calendar quarter and the Tax Commissioner provides at least 60 days notice to the retailers.

(Sections 77-27,142, 77-27,142.01, 77-27,142.02, 77-27,142.03, 77-27,142.04, 77-27,142.05, 77-27,143, and 77-27,144, R.R.S. 2003. April 12, 2005.)

REG-9-002 NOTIFICATION TO STATE TAX COMMISSIONER OF CITY ADOPTION OF LOCAL SALES AND USE TAX

002.01 When the governing body of a city adopts the local sales and use tax, the city must forward to the State Tax Commissioner by certified or registered mail a certified copy of the ordinance imposing the tax; a certified map of the city clearly showing the boundaries thereof; a certified copy of the election results to the question submitted to the electors; and a certified statement from the election commissioner that the question of imposing the tax for the city has not failed in the previous 23 months. City shall mean any incorporated municipality for the purpose of these regulations.

(Section 77-27,143, R.R.S. 2003. July 16, 2005.)

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REG-9-003 LOCAL RATE CHANGE

003.01 If any city changes the rate of its local sales and use tax, the effective date shall be the first day of the calendar quarter following: 1) receipt by the Tax Commissioner of the certified materials prescribed in Reg-9-002; provided, the adopting ordinance is received 120 days prior to the start of the calendar quarter; and 2) the Tax Commissioner providing at least 60 days notice to the retailer.

003.02 Notice by the Tax Commissioner to the retailers may be provided through the Department's Web site.

003.02A Companies that publish a printed catalog that contains the local sales tax rates for each political subdivision are held harmless for any liability resulting from a change in local sales tax rates on purchases from the catalog when the purchaser computes the sales tax until the start of the quarter that is at least 120 days after the Tax Commissioner's notice of the change.

(Section 77-27,143, R.R.S. 2003. April 12, 2005.)

REG-9-004 CHANGE OR ALTERATION OF CITY BOUNDARIES: NOTIFICATION REQUIRED

004.01 If any city in which a local sales and use tax has been imposed shall thereafter change or alter its boundaries in any manner, such city shall forward to the State Tax Commissioner by certified or registered mail a certified copy of the ordinance making such changes. Such ordinance shall reflect the effective date thereof, determined by statutory authority applicable to the class of city adopting a local option sales and use tax ordinance. The ordinance required to be furnished the Tax Commissioner must also be accompanied by a certified map of the city clearly showing the territory added thereto or detached therefrom and a list of all licensed retailers within the annexed or detached territory. For local option tax purposes, the territory affected shall be considered annexed to or detached from the city on the first day of a calendar quarter which is at least 120 days following receipt of the ordinance and map by the Tax Commissioner and at least 60 days after the Tax Commissioner provides notice to the retailers.

(Section 77-27,143, R.R.S. 2003. April 12, 2005.)

REG-9-005 COLLECTION, PERMITS, AND VARIOUS CERTIFICATES OF EXEMPTION

05.01 The Tax Commissioner shall collect the sales or use tax imposed by any city concurrently with the collection of the state sales and use tax and in the same manner as the state sales and use tax is collected.

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05.02 Transactions which are subject to taxation by the State of Nebraska under the provisions of the Nebraska Revenue Act of 1967, as amended, shall be subject to taxation under the Local Option Revenue Act except as otherwise provided by law and regulation.

05.03 Any permits and certificates of exemption which are authorized or required under the Nebraska Revenue Act of 1967, as amended, for state sales and use tax exemption purposes, will satisfy the requirements of the Local Option Revenue Act.

(Sections 77-27,142, 77-27,144, and 77-27,147, R.R.S. 2003. April 12, 2005.)

REG-9-006 THE BRACKET SYSTEM

006.01 Every retailer making sales for delivery in a city which has imposed a local sales and use tax, shall collect the local tax and the tax imposed by the Nebraska Revenue Act of 1967, as amended. The combined tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price representing the tax base.

006.02 The combined tax shall be collected according to a bracket schedule established by the State Tax Commissioner based on the applicable state and local rates.

006.03 The sales or use tax liability may be computed by multiplying the sales price by the appropriate tax rate percentage. All persons using machine or computer billings are authorized by the Tax Commissioner to use a straight percentage basis of calculating the tax on such billings. If the tax results in a fraction of a cent, the tax liability shall be carried to the third decimal place and rounded to the nearest whole cent. If the third decimal place is four or less, round down, and if the third decimal place is greater than four, round up.

006.04 When more than one item is purchased, the tax may be computed on the total amount of the combined purchases.

(Section 77-27,147, R.R.S. 2003. April 12, 2005.)

REG-9-007 LOCATION OF THE SALE

007.01 A local option sales and use tax may be imposed only upon transactions that are also subject to the state sales and use tax. Transactions exempted for state purposes are similarly exempted for local option tax purposes.

007.02 Except for the sale of motor vehicles, trailers, semitrailers, and motorboats, and the rental or lease of property requiring recurring payments, the location where the purchaser takes possession of the property will generally determine the tax rate that applies to the sale. If possession of property is taken by the purchaser within a municipality which has enacted a local tax pursuant to the Local Option Revenue Act or a county sales and use tax pursuant to sections 13-319 through 13-326 of the Nebraska Revised Statutes, the local tax of that city or county is applicable, regardless of the business location of the Nebraska retailer.

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007.02A Sales of motor vehicles, trailers, semitrailers, and motorboats are subject to tax at the registration address.

007.02B Receipts for the rental or lease of a motor vehicle, trailer, or semitrailer, other than transportation equipment as defined in Reg-1-019, requiring periodic recurring payments are taxed at the primary property location. Receipts from the rental or lease of a motor vehicle, trailer, or semitrailer not requiring recurring periodic payments are taxed at the location where the vehicle is received by the purchaser.

007.02C Receipts from the rental or lease of a motorboat for periods of one year or more are taxed at the registration address. Receipts from the rental or lease of a motorboat for less than one year are taxed at the location where the purchaser takes possession of the motorboat.

007.02D Receipts from the rental or lease of transportation equipment are taxed where the seller transfers physical possession or control of the equipment to the buyer in this state.

007.02E Receipts from the rental or lease of property requiring recurring periodic payments are taxed as follows: the first periodic payment is taxed at the location where the property is received by the lessee; payments subsequent to the first payment are taxed at the primary property location.

007.02F Receipts from the rental or lease of property not requiring recurring payments are taxed where the property is received by the lessee.

007.02G The sale of utility services as defined in the Nebraska Revenue Act of 1967, as amended, except communication services, occurs where the meter is located or the connection is furnished. Retailers selling such services shall collect the local tax imposed by the city or county where the meter is located or the connection is furnished at the rate required by Reg-9-010.

007.02H Except for mobile telecommunications service, retailers selling utility communication services shall collect the taxes imposed pursuant to the Local Option Revenue Act on local two-way telephone service or exchange service at the rate imposed by the city or county wherein the service is provided to the customer. For Nebraska intrastate message toll service, and for telecommunication services without a designated customer service address, the tax collected shall be at the rate imposed by the city or county wherein the customer normally is billed for such service. However, if the customer's billing address is outside the normal service area of the retailer, the tax collected shall be at the rate imposed by the city or county wherein the service is normally provided to the customer.

007.02H(1) Mobile telecommunications service is subject to tax at the customer's place of primary use regardless of where the service originates, terminates, or passes through. Place of primary use means the residential or business street address of the customer.

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007.02I The tax situs of vending machines is determined by the actual physical location of the individual vending machines.

007.02J In those cases where a distributor or home office reports for itinerant salesmen, and when the sales are made for delivery in a city or county which imposes a local option tax, it is the obligation of such distributor or home office to remit the local tax along with the state tax.

007.02K Where a state use tax liability exists, it is the obligation of the ultimate consumer to report and remit city or county use tax in the same manner as state use tax is paid.

007.03 The county treasurer, other designated county official, or the Department of Motor Vehicles will collect local option sales and use tax in accordance with the following:

007.03A When registering a motor vehicle, trailer, semitrailer, or motorboat of a resident of a city or county which has adopted a local option sales and use tax, the city or county tax shall be collected, reported, and remitted in the same manner as is required for state sales and use tax purposes.

007.04 Purchases made pursuant to a certificate of exemption for multiple points of use are taxed at the locations as determined by the apportionment method employed by the purchaser, provided such method is reasonable and consistent.

007.05 Purchases made pursuant to a certificate of exemption for direct mail are taxed at the locations to which the direct mail is delivered to recipients as indicated by the purchaser.

(Sections 77-2703.03, 77-2703.04, 77-27,142, and 77-27,147(1) and (4), R.R.S. 2003, sections 77-2703.02 and 13-319, R.S.Supp., 2004, and sections 77-2703.01 and 77-27,143(10), R.S.Supp., 2005. March 7, 2006.)

REG-9-008 RETURNS AND RECORDS

08.01 Persons responsible for collecting and reporting city sales and use tax shall report on forms provided by the Department of Revenue. Such forms shall contain such information as the Tax Commissioner deems necessary for the proper and efficient administration of the Local Option Revenue Act.

08.02 Every person liable for the collection and payment of a local sales and use tax shall keep receipts, invoices, and such other records as are necessary to establish the amount of tax for which he is liable.

(Section 77-27,143, R.R.S. 1943. September 15, 1975.)

REG-9-009 CONTRACTORS

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009.01. Contractors as defined in Reg-1-017, Contractors, are required to choose one of three options for the taxation of building materials used by the contractor. The contractor is required to use the same method for the local option tax as is used for the state sales and use tax.

009.02. Contractors who have selected Option 1 will collect tax on building materials and taxable contractor labor from their customers based on the location of the project.

009.03. Contractors who have selected Option 2 will pay tax on their purchase of building materials based on when the purchase of building materials occurs and whether delivery to the contractor takes place within a city having adopted a local option tax. When delivery is within a city having adopted a local option tax, such sale is subject to the local tax even if the construction project is outside the city limits. Contractors performing taxable contractor labor within the boundaries of a city imposing a local option tax must collect the city tax along with the state tax.

009.04 Contractors who selected Option 3 will pay tax on their removal of materials from inventory based on the location of the inventory and the date of the removal. When the removal from inventory is within a city having adopted a local option tax, such removal is subject to the local tax even if the construction project is outside the city limits. Contractors performing taxable contractor labor within the boundaries of a city imposing a local option tax must collect the city tax along with the state tax.

009.05 Contractors using fixed-price contracts must follow the provisions of Sales and Use Tax Reg-1-017, Contractors, when a local option tax is adopted, repealed, or the rate is changed.

(Sections 77-27,142, and 77-27,147, R.R.S. 2003, and sections 77-2703(l), 77-2701.10, and 77-2703.01, R.S.Supp., 2004. July 16, 2005.)

**REG-9-010 CONTRACTS FOR PURCHASE OF TANGIBLE PERSONAL PROPERTY  
EXECUTED PRIOR TO ENACTMENT OF OR INCREASE IN LOCAL OPTION SALES AND  
USE TAX**

010.01 When a local option tax is enacted or the rate is increased, the accounting basis used by the retailer to maintain his or her books and records will determine at which rate he or she is to collect and remit the local tax arising from his or her sales, leases, or rentals. This holds true notwithstanding the existence of contracts which predate the enactment of or the increase in the local tax. (See Reg-1-009 and Reg-1-016.)

010.02 A retailer on a cash basis of accounting will collect and report the tax at the rate as it exists at the time he or she receives a cash payment; and a retailer on an accrual basis of accounting will collect and report the tax at the rate as it exists at the time he or she records the sale.

(Sections 77-27,144, and 77-27,147, R.R.S. 2003, and section 77-2703(l), R.S.Supp., 2004. July 16, 2005.)

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REG-9-011 DIRECT-TO-HOME SATELLITE PROGRAMMING

011.01 The local option sales and use tax does not apply to charges for direct-to-home satellite programming that is transmitted or broadcast by satellite directly to the subscriber's residential premises even though the state sales and use tax applies to such charges for direct-to-home satellite programming.

011.01A Retailers must collect and remit the local option sales and use tax on all direct-to-home equipment (i.e. dishes, receivers, and decoders) that are sold or leased to subscribers.

011.01B Retailers who charge for equipment and direct-to-home programming and who do not separately state the charges on the sales invoice or contract, or do not separately invoice the charges, are required to collect and remit the local option sales and use tax on the total charge.

011.01C Charges for satellite programming transmitted to a business or commercial customer are taxable.

(Public Law 104-104, Title VI, s. 652. November 11, 1998.)

REG-9-012 RATES AND BOUNDARIES DATA BASE

012.01 The Tax Commissioner will provide and maintain a data base that assigns each five-digit and nine-digit zip code within the state to the proper tax rates and jurisdictions in accordance with the provisions of the Streamlined Sales Tax Agreement.

012.02 The Tax Commissioner will provide and maintain a data base that describes the boundary changes and effective date of the change for all local jurisdictions which impose a local option sales and use tax.

012.03 Retailers will be held harmless for any liability resulting from the use of either data base provided by the Tax Commissioner.

(Section 77-27,143, R.R.S. 2003. April 12, 2005.)

REG-9-013 ADMINISTRATION OF COUNTY SALES AND USE TAX

013.01 The county sales and use tax applies to the same transactions within the county on which the state is authorized to impose a sales and use tax.

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013.02 The county sales and use tax shall not apply within the boundaries of any incorporated municipality which has adopted a local sales tax pursuant to section 77-27,142, of the Nebraska Revised Statutes, even if the rate imposed by the municipality is lower than the rate imposed by the county, the municipality adopts a local option sales tax after the adoption of the county sales and use tax, or the municipality changes its boundaries.

013.03 Any county-imposed sales and use tax will be collected and administered by the Tax Commissioner in the same manner as taxes imposed by the Local Option Revenue Act, as amended.

013.04 The documents required to be submitted to the Tax Commissioner prior to the implementation of a county sales and use tax are the same as those required for municipalities imposing a sales and use tax with the exception of a certified map of the county. The time periods for the notifications and the effective dates of the the adoption, or rate change will be the same as for a local option sales and use tax adopted by a municipality.

(Section 13-324, R.S.Supp., 2004. April 12, 2005.)